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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/606,210	06/29/2000	Govind Malalur	P108339-09053	8162
32294	7590	10/07/2003	EXAMINER	
SQUIRE, SANDERS, & DEMPSEY L.L.P.			NGUYEN, BRIAN D	
14TH FLOOR			ART UNIT	
8000 TOWERS CRESCENT			PAPER NUMBER	
TYSONS CORNER, VA 22182			2661	

DATE MAILED: 10/07/2003

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Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/606,210

Applicant(s)

MALALUR, GOVIND

Examiner

Brian D Nguyen

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on the application filed 6/29/00.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-31 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 18-20,22,25,26 and 28-30 is/are allowed.
- 6) ☐ Claim(s) 1-10,13-16,23 and 24 is/are rejected.
- 7) ☐ Claim(s) 11,12,17,21,27 and 31 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                  | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____. |
| 2) <input checked="" type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)              | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) <u>2</u> . | 6) <input type="checkbox"/> Other: _____.                                   |

## **DETAILED ACTION**

### ***Specification***

1. The lengthy specification has not been checked to the extent necessary to determine the presence of all possible minor errors. Applicant's cooperation is requested in correcting any errors of which applicant may become aware in the specification.
2. The applicant is requested to update the status for Serial No. 09/343,409 on page 1 of the specification.

### ***Claim Objections***

3. Claims 2, 10, 13-17, 21, 27, and 30 are objected to because of the following informalities:

Claim 2, 14, 21, and 27, "DMA" should be spelled out.

Claim 10, "remote system memory" in line 3 seems to refer back to "a remote system memory" in claim 1, line 8. If this is true, it is suggested to change "remote system memory" to --the remote system memory---.

Claim 13, "a network switch" in line 3 seems to refer back to "a network switch" in line 1. If this is true, it is suggested to change "a network switch" to ---the network switch---.

Claim 17, "a network switch" in line 3 seems to refer back to "a network switch" in claim 13, line 1. If this is true, it is suggested to change "a network switch" to ---the network switch---.

"a remote system memory" in line 4 seems to refer back to "a remote system memory" in claim 13, line 5. If this is true, it is suggested to change "a remote system memory" to ---the remote system memory---.

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Claim 30, "a network switch" in line 3 seems to refer back to "a network switch" in claim 26, line 1. If this is true, it is suggested to change "a network switch" to ---the network switch---. "a remote system memory" in line 4 seems to refer back to "a remote system memory" in claim 26, line 10. If this is true, it is suggested to change "a remote system memory" to ---the remote system memory---.

***Claim Rejections - 35 USC § 112***

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claims 5-6 and 23-34 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 5 recites the limitation "the remote CPU" in line 2. There is insufficient antecedent basis for this limitation in the claim.

Claim 23 recites the limitation "the remote CPU" in line 2. There is insufficient antecedent basis for this limitation in the claim.

***Claim Rejections - 35 USC § 102***

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who

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has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

7. Claims 1-2, 5-10, and 13-14 are rejected under 35 U.S.C. 102(e) as being anticipated by Kerstein et al (6,393,548).

Regarding claims 1, 5-6, 9, Kerstein discloses a network switch (12) comprising a plurality of data ports; a plurality of statistics counters for monitoring operational parameters; statistics registers; a statistics gathering circuit for reading the statistics registers, and for transmitting data from the statistics registers to a remote system memory (34); a CPU interface unit for interfacing the network switch (see abstract; figures 1 & 2; col. 4, lines 19-48).

Regarding claim 2, Kerstein discloses the use of a direct memory access operation between the registers and the remote memory (see col. 6, lines 62-67).

Regarding claims 7-8, Kerstein discloses the switch comprises a communication channel (bus) (see col. 1, lines 26-31).

Regarding claim 10, Kerstein further discloses a CPU interface directs a remote CPU to identify where the data is stored in a predetermined section of the remote memory (see col. 6, lines 59-67 and col. 8, lines 50-52).

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Regarding claims 13 and 14, claims 13 and 14 are method claims that have substantially all the limitations of the respective apparatus claims 1-2 and 10. Therefore, they are subject to the same rejection.

***Claim Rejections - 35 USC § 103***

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claims 3-4 and 15-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kerstein et al (6,393,548).

Regarding claims 3-4, Kerstein further discloses periodically update all the per port statistics (see col. 10, lines 1-2), Kerstein does not specifically disclose the use of a timer unit and a timer value indicating a number of system clock cycles which determines the predetermined period. However, it is obvious that a predetermined period is based on a number of clock cycles and a timer is used to measure time. Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to use the timer for measuring time so that the statistics registers can be repeatedly read and transmit to the remote memory in order to prevent overflow in the internal memory.

Regarding claims 15 and 16, claims 15 and 16 are method claims that have substantially all the limitations of the respective apparatus claims 3 and 4. Therefore, they are subject to the same rejection.

***Allowable Subject Matter***

10. Claims 18-20, 22, 25-26, and 28-30 are allowed.
11. Claims 21, 23-24, 27, and 31 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, second paragraph or the objections set forth in this Office action.
12. Claims 11, 12, and 17 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Conclusion***

13. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Lentz et al (5,941,979), Erimli (6,483,844), and Kadambi et al (6,335,932) are all cited to show the use of a external memory for a switch which are considered pertinent to the claimed invention.

14. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brian D Nguyen whose telephone number is (703) 305-5133. The examiner can normally be reached on 7:30-6:00 Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Doug Olms can be reached on (703) 305-4703. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 306-0377.

A handwritten signature in black ink, appearing to read 'Brian Nguyen', with a stylized, flowing script.

Brian Nguyen